

The Honorable Michelle L. Peterson

Noted for Friday, October 7, 2022

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NANNETTE BASA,

Plaintiff,

v.

BRAND SHARED SERVICES, LLC,

Defendant.

No. 2:21-cv-00754-MLP

SUPPLEMENTAL DECLARATION OF
ALEX J. HIGGINS IN SUPPORT OF
PLAINTIFF'S MOTION TO COMPEL

I, Alex J. Higgins, am one of the attorneys for the plaintiff in the above-entitled matter. I am over the age of 18 and am competent to testify regarding the matters discussed below. I make this declaration based upon personal knowledge. I swear that the following is true and correct under the penalty of perjury. The paragraph numbers and exhibit numbers continue from the first declaration I filed in support of this motion at Dkt. 33.

7. Throughout the discovery in this case, Brand has not produced any documents that show how the decisions were made during the 2020 reduction in force—neither for Basa's layoff or for anyone else. Brand has not produced any documents whatsoever to explain the business case for selecting Basa for layoff. These documents were requested as early as Plaintiff's first set of discovery requests sent in October 2021.

8. During the depositions of Karen Riapos and Michelle Roman, I further explored where there were any documents or notes regarding the process and was told that none exist.

1 Notably, when Roman was asked about documentation, she did not share the existence of a
2 worksheet that she had created to document the reasons for the selections. As we only learned
3 of the Corporate RIF Worksheet when the privilege log was produced *after* Roman’s deposition,
4 we did not know to directly ask her about that issue.

5 9. This motion was filed on September 22. The next week, Brand served its
6 supplemental privilege log. The new log revealed for the first time that the worksheet was
7 created by Michelle Roman. Given Roman’s deposition testimony, it appears that she created
8 the document to get approval from Newman—a non-lawyer. While it is possible that she also
9 gave that Worksheet to an in-house lawyer to review also, there is no evidence of any
10 transmission of that document to a lawyer. During the discovery conference on October 3,
11 when asked how the document was transmitted, Brand’s counsel said it was “hand delivered” to
12 the in-house counsel.

13 10. If Brand had given Plaintiff a privilege log in a timely manner—prior to
14 Roman’s deposition—we would have questioned her about the purpose of this “Corporate RIF
15 Worksheet.”.

16 11. Attached to this declaration as **Exhibit 5** are excerpts of the deposition of Karen
17 Riapos. Also attached to this declaration as **Exhibit 6** are excerpts of the deposition of Michelle
18 Roman.

19
20 SIGNED this 7th day of October, 2022, at Seattle, Washington.

21 s/Alex J. Higgins
22 Alex J. Higgins, WSBA No. 20868
23
24
25
26
27